serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

As a result of modern search technology, Applicants believe that no serious burden is created for the Examiner by running a simultaneous computerized search of the DNA sequences encoding enzymes involved in sterol metabolism, as recited in, for example, Groups I through VI. The single search may be run in conjunction with databases such as those available at http://www.ncbi.nlm.nih, without undue burden on the Examiner.

In addition, fifty-five of the groups (Groups I-III and VII-LVIII) cited by the Office involve subject matter that has been classified in Class 800, Subclass 298, and therefore are presumed not to "have acquired a separate status in the art as shown by their different classification." Therefore, as the same art would need to be searched for these groups, no undue burden would be imposed on the Examiner by simultaneous search and examination of these groups.

Furthermore, most of the groups (Groups I-LV) are the result of a division of Markush groups. As Section 803.02 of the MPEP states:

> [i]f the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the Markush group in the claim on the merits, even though they are directed to independent and distinct inventions. In such a case, the examiner will not follow the procedure described [in the remainder of 803.02] and will not require restriction.

Applicants respectfully submit that the Examiner has not shown that the members of the Markush groups in, for example, claim 1, are so numerous or not closely enough related that a search and examination of the entire claim would cause a serious burden. Rather, a serious burden would arise if the claimed Markush groups were divided.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore must be withdrawn. To facilitate prosecution, however, Applicants have provisionally elected, with traverse, Group II (claims 1-13, 17-19, 34-2, 46-48, and 70).

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (202) 942-5071. The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 50-1824.

Respectfully submitted,

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